

REMARKS

Claims 1-10 remain in this application. Claims 1 and 3 have been amended to better define Applicant's invention. New claim 8, presenting claim 6 in independent form and directed to the embodiment of Fig. 10 along with dependent claims 9 and 10 are added.

Claims 1, 3, 4, 7/1, 7/3/1 and 7/4/1 were rejected as obvious over Knebel in view of Middlestadt. Applicant respectfully traverses this rejection. Knebel has a mask which is movable in the spectrum direction to select a wavelength. There is no teaching of controlling the spacing between the two sides of the mask. Middlestadt teaches a device for forming a calibrated aperture "which opens or closes symmetrically about a center line." This device can provide this capability in two dimensions. Although use in spectrometric instruments is mentioned there is no teaching or suggestion that this device can be used to "select a definable spectral region" as is the purpose of means 3 in Knebel. (See para. 0025 of Knebel). It seems more likely that one would use it for the excitation slit or pinhole. Consider what would happen if one substituted the arrangement of Middlestadt for means 3 of Knebel. It would not work. It would be positioned at a particular wave length and adjustment of the slit in the spectrum direction would only control the width of the spectrum allowed through, it would not permit selection as means 3 must do. Thus, Applicant submits that one of skill in the art would not combine these two references and if he did would end up with an unworkable arrangement.

To further bring out the differences between both of these references and the claimed invention, claim 1 has been amended. The two masks are now defined as follows:

said first mask includes a pair of first mask members which are independently movable closer to or further away from each other so as to adjust a first length of said transmission area in said spectrum direction and a first position of said transmission area in said spectrum direction ;
and

said second mask includes a pair of second mask members which are independently movable closer to or further away from each other so as to adjust a second length of said

transmission area in said direction perpendicular to said spectrum direction and a second position of said transmission area in said direction perpendicular to said spectrum direction .

This is described at page 7 , line 19 to page 8, line 23 in the specification. As stated “Each of the variable masks 24a and 24b can be independently moved in the spectrum direction (the left-to-right direction in the figure). Therefore, by moving the absolute positions of the variable masks 24a and 24b in the spectrum direction, it becomes possible to adjust the wavelength band of the fluorescent light received by the photodetector device 30. In addition, by controlling the gap w1 between the variable masks 24a and 24b, it becomes possible to adjust the wavelength width of the fluorescent light received by the photodetector device 30” (page 8, lines 2 to 8). It is further stated: “The composite masks 24c and 24d can independently move in the perpendicular direction (the top-to-bottom direction of FIG. 2) (It is possible to move both in the perpendicular direction while preserving the gap of the aperture portion between the composite masks 24c and 24d at a constant width). Therefore, by moving the absolute position of these variable masks 24a and 24b in the perpendicular direction, it becomes possible to adjust the transmission position of the fluorescent light in the perpendicular direction. In addition, by controlling a gap w2 between these variable masks 24a and 24b, it becomes possible to adjust the height dimension through which the fluorescent light can be transmitted in the perpendicular direction” (page 8, lines 9 to 17). (Emphasis supplied).

These amendments bring out the ability to independently move the parts of the mask to both select spectrum and control the gap and hence the wavelength width, for example. In both references the two sides on the mask move together and not independently. Thus, they cannot provide the same functionality as called for by claim 1. Because of these differences, claim 1 and all claims dependent thereon should be allowed. This includes claims 2, 6, 7/2/1, and 7/6/1. Nothing in Englehardt ‘165 or ‘329 makes up for the deficiencies in the primary references.

Claim 3 has been amended to better bring out the nature of movement in view of the amendment to claim 1 and further distinguishes over these references.

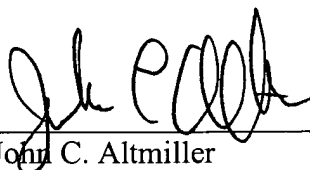
Claims 6 and 7/6/1 were rejected as obvious over Knebel, Middlestadt, and Engelhardt '165. Claim 6 has been presented in independent form as claim 8. Applicant submits that this claim and claims dependent thereon are allowable. The Examiner contends that Engelhardt discloses the lenses of claim 6 opposite the first and second masks. Applicant submits that Engelhardt does not have the structure of "a lens disposed adjacent to said first and second masks." Lens 11 is a large distance from single mask 12, not adjacent to it. Thus, claim 8 should be allowed. Claim 9 is even more clearly allowable claiming the combination of the adjacent lens and the slanted surface described in connection with Fig. 10. This is not suggested by any combination of the references even if Engelhardt '329 is considered

In view of the above, Applicants believe that all claims remaining in this application are in condition for allowance, prompt notice of which is respectfully solicited.

The Examiner is invited to call the undersigned at (202) 220-4200 to discuss any information concerning this application.

The Office is hereby authorized to charge any additional fees under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayment to Deposit Account No. 11-0600.

Respectfully submitted,



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